UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY KIRSCH,

    Plaintiff,

-vs-

XEROX CORPORATION,

    Defendant and Third-Party Plaintiff,

-vs-

DANKA OFFICE IMAGING COMPANY, NEC USA,
INC. and SAMSUNG ELECTRONICS CO., LTD.,

    Third Party Defendants.

Case No. 00-72778
Hon. Denise Page Hood

U.S. DISTRICT COURT ANN ARBOR — Aug 25 3 00 PM '00 — FILED

Joseph C. Basta (P24645) Robert L. Kelly (P34412) Thomas M. Schehr (P54391) DYKEMA GOSSETT PLLC 400 Renaissance Center Detroit, MI 48243-1668 (313) 568-6592 Attorneys for Plaintiff	J. Michael Huget (P39150) BUTZEL LONG 350 South Main Street Suite 300 Ann Arbor, MI 48104-2131 (734) 995-3110 A. Sidney Katz Robert B. Breisblatt WELSH & KATZ, LTD. 120 South Riverside Plaza 22nd Floor Chicago, IL 60606 (312) 655-1500 Attorneys for Defendant

THIRD PARTY COMPLAINT FOR INDEMNIFICATION BECAUSE OF CHARGES OF PATENT INFRINGEMENT

Defendant, Xerox Corporation (Xerox), by its attorneys, Complains as follows:

1.   Plaintiff, Jerry Kirsch (Kirsch), has filed against defendant, Xerox, a Complaint ("the Complaint"), a copy of which is hereto attached as Exhibit A.

2.   The products alleged as infringing in the Complaint are products manufactured by others and sold to either Xerox or Danka Office Imaging Company (Danka).

3.   Third party plaintiff, Xerox, is a New York corporation, having its principal place of business at 800 Long Ridge Road, Box 1600, Stamford, Connecticut 06904-1600.

4.   Third party defendant, Samsung Electronics Co. Ltd. (Samsung), is a company organized under the laws of Korea, that does business throughout the United States including Michigan.

5.   The accused device, the WorkCentre 385, is manufactured by Samsung and sold to Xerox.

6.   If the WorkCentre 385 is found to infringe U.S. Patent No. 4,816,911 to Kirsch, et al. (Kirsch '911 Patent), then Samsung is responsible pursuant to both written agreements and the Uniform Commercial Code to indemnify Xerox for both any judgment entered against Xerox and Xerox's expenses in contesting the lawsuit.

7.   Danka is a Delaware Corporation that sold all of the assets used in its Omnifax, Dex Business Systems and EBS Divisions to Xerox on or about June 17, 1999.

8.   Danka, prior to June 17, 1999, distributed the Omnifax L5450 and Dex 785 machines that are charged with infringement in the Complaint.

9.   If the Omnifax L5450, and/or Dex 785 are found to infringe the Kirsch '911 Patent, then Danka is responsible, pursuant to both written agreements and the

2

Uniform Commercial Code, to indemnify Xerox for both any judgment entered against

Xerox and Xerox's expenses in contesting the lawsuit.

10.   NEC USA, Inc. (NECA USA) is incorporated in New York and does

business throughout the United States including Michigan.

11.   Subsequent to June 17, 1999, NECA USA supplied the Omnifax L5450 to

Xerox.

12.   If the Omnifax L5450 is found to infringe the Kirsch '911 Patent, then

NEC USA is responsible, pursuant to both written agreements and the Uniform

Commercial Code, to indemnify Xerox for both any judgment entered against Xerox and

Xerox's expenses in contesting the lawsuit.

WHEREFORE, Xerox demands judgment against third party defendants, Danka,

Samsung and NEC USA, for any and all sums that may be adjudged against Xerox in

favor of Kirsch.

WHEREFORE, Xerox demands judgment against third party defendants, Danka,

Samsung and NEC USA, for Xerox's attorney's fees and costs in defending the action

brought by Kirsch for infringement of the '911 Patent.

JURY DEMAND

Defendant/third party plaintiff, Xerox, demands a trial by jury.

Respectfully submitted,

BUTZEL LONG

By:

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**Attorneys for Defendant/Third Party
Plaintiff**

Dated: August **2,**, 2000

4

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EASTERN DISTRICT OF MICHIGAN

SEE CASE FILE FOR ADDITIONAL DOCUMENTS OR PAGES THAT WERE NOT SCANNED